

Chief Judge Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

HENRY C. ROSENAU

Defendant.

NO. CR06-157MJP

MOTION FOR RELEASE OF
DEFENDANT PENDING TRIAL

Note On Motion Calendar: 6/1/2012

The DEFENDANT, by and through his counsel of record, Craig A. Platt, hereby files this Motion for Release of Defendant Pending Trial pursuant to 18 U.S.C. §3142 and respectfully requests that this Court issue an order releasing Mr. Rosenau pending his second trial.

18 U.S.C. 3142(g) provides several factors that the Court must take into consideration when determining whether to release the accused. Such factors include the weight of the evidence against the person; the history and characteristics of the person including the person's character, physical and mental condition, family ties, financial resources, criminal history, and record concerning appearance at court proceedings, and other factors. 18 U.S.C. 3142(g).

A. Weight of the Evidence Against Mr. Rosenau

"Nothing in [18 U.S.C. §3142] shall be construed as modifying or limiting the presumption of innocence." 18 U.S.C. 3142(j). As the Court is well aware, Mr. Rosenau stood

1 trial for approximately two weeks. Despite the government's evidence, the jury was unable to
2 reach a verdict. This reveals that a reasonable mind, when presented with all of the evidence,
3 can come to the conclusion that the government cannot prove its case against Mr. Rosenau. The
4 court should carefully consider this factor upon determining whether Mr. Rosenau should be
5 released pending trial.
6

7 **B. Physical and Mental Condition**

8
9 Mr. Rosenau suffers from diabetes and requires special care for this disease. Moreover,
10 Mr. Rosenau has lost a substantial amount of weight during his detention and has aged
11 significantly. Mr. Rosenau's physical and mental health will be further protected if Mr. Rosenau
12 is released pending his second trial.
13

14 **C. Family Ties**

15
16 Mr. Rosenau maintains a close relationship with his daughter Jaclyn Gagnon and his son-
17 in-law Jonathan Gagnon. Mr. Rosenau also has grandchildren. Mr. Rosenau is also married to
18 Judi Rosenau.
19

20 **D. Financial Resources**

21
22 As a result of Mr. Rosenau's detention, his family has endured a substantial amount of
23 physical, mental, and financial stress. Moreover, Mr. Rosenau's daughter and son-in-law,
24 Jonathon Gagnon, have had to handle a substantial amount of Mr. Rosenau's financial and
25 personal responsibilities. This is in part due to the fact that Mr. Rosenau's wife, Judi, suffers
26 from arthritis and is oftentimes ill.
27

28
29 Since Mr. Rosenau's detention, the Gagnons have been required to cover most of the
30 costs of Mr. Rosenau's land taxes and property insurance. Judi Rosenau cannot afford to cover
31 these expenses without Mr. Rosenau. Mr. Rosenau's property in Quesnel, British Columbia is
32 also in jeopardy of being repossessed by a bank this summer. If this occurs, Mr. Rosenau's son-
33 in-law will be required to take a substantial amount of time off of work in order to remove the
34 Rosenaus' belongings from the property. This will result in the Gagnon's losing approximately
35 four-hundred dollars a day and additional costs associated with hiring a moving company,
36 renting moving trucks, and other machinery necessary for the removal of the Rosenaus'
37 belongings. These expenses and costs will result in further financial hardship on Judi Rosenau as
38 well as the Gagnons.
39
40
41
42
43
44

1 Additionally, Mr. Rosenau currently has a variety of bills and loans that must be paid.
2 Judi Rosenau may be forced into bankruptcy if she is required to make payments on such bills
3 and loans as it is not possible for the Gagnons to cover such expenses.
4

5 The expenses and financial hardships endured by the Gagnons and Judi Rosenau as a
6 result of Mr. Rosenau's detention has had a substantial impact on Judi Rosenau and the
7 Gagnon's financial well-being, marriage, family life, and work. Overall, the release of Mr.
8 Rosenau pending his second trial will serve to alleviate his family from such financial and social
9 hardship.
10

11
12
13 **E. Criminal History**

14 Mr. Rosenau has never been convicted of a crime.

15
16 **F. Record Concerning Appearance at Court Proceedings**

17 Mr. Rosenau has faithfully appeared at all court proceedings since 2005. Mr. Rosenau
18 travelled from Canada to be at all court proceedings in this matter and will remain fully
19 compliant.
20

21
22
23 For the reasons stated above, the Defense respectfully requests that Mr. Rosenau be
24 released pending his second trial.
25

26
27
28
29 DATED this 21st day of May, 2012.

30 Respectfully submitted,
31 PLATT & BUESCHER

32
33 s/Craig Platt
34 Craig Platt
35 Attorney for Defendant
36 WSBA #12396
37 P.O. Box 727
38 Coupeville, Washington 98239-0727
39 Telephone: (360) 678-6777
40 Fax: (360) 678-0323
41 Email: craig@plattbuescher.com
42
43
44

CERTIFICATE OF SERVICE

I hereby certify that on 5/21/2012, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorney(s) of record for the Government.

s/Jill Ogren
Jill Ogren
Legal Assistant
Platt & Buescher
P.O. Box 727
Coupeville, Washington 98239-0727
Telephone: (360) 678-6777
Fax: (360) 678-0323
Email: craig@plattbuescher.com